

REMARKS

Reconsideration is requested.

Claims 13-36 are pending. Claims 16 and 28-36 have been withdrawn from consideration. Claims 13-15 and 17-27 are under active consideration. Examination of claims 29-30 and 32-36, to the extent they depend, directly or indirectly, from claims 13-15 and 17-27 is also requested.

The Section 103 rejection of claims 13-15 and 17-27 over Wright (U.S. Patent No. 5,547,677), is traversed. Reconsideration and withdrawal of the rejection is requested in view of the following distinguishing remarks.

The cited patent is understood to disclose cosmetic compositions containing lipids. Among them, is cited olive oil. The cited patent however is also understood to teach that the disclosed emulsions are for an antibacterial purpose, as apparently acknowledged by the Examiner (see page 4 of the Office Action dated November 2, 2005 (emphasis in original) ("the discontinuous phase of Wright's emulsion binds to the **biological membrane of a pathogen and subsequently solubilizes the membrane**").

Moreover, the cited patent is understood to teach that this emulsion has a microbicidal activity against a broad spectrum of bacteria and several yeasts (col 1, line 15-16). The compositions of the cited patent each contain

a cationic halogen-containing compound having a C₁₂ -C₁₆ chain selected from the group consisting of cetylpyridinium chloride, cetylpyridinium bromide, cetyltrimethylammonium bromide, cetyltrimethylammonium chloride, cetyltrimethylammonium bromide, cetylbenzyldimethylammonium chloride, cetylbenzyldimethylammonium bromide, cetyltributylphosphonium chloride, cetyltributylphosphonium bromide,

dodecyltrimethylammonium bromide, and tetradecyltrimethylammonium bromide.

The patent teaches that

Antimicrobial emulsions of the present invention are non-toxic and safe, for example, when swallowed, inhaled, or applied to the skin. This result is unexpected since many cationic halogen-containing compounds having a C₁₂-C₁₆ chain are extremely toxic if administered alone. For example, cetylpyridinium chloride (CPC), a preferred cationic halogen-containing compound of the invention, causes severe irritation and damage to tissues of the upper respiratory tract, mucous membranes and skin. However, when administered in the form of an emulsion of the invention, no such adverse effects occur. Furthermore, the emulsions of the invention are stable when heated or exposed to significant levels of acid and base. See column 1, lines 35-67 of the cited patent (underlined emphasis added).

The cited patent therefore describes antibacterial compositions (see col 2, lines 37-40 "the present invention further provides a method for inhibiting the growth of an infectious pathogen by topical [...] administration of the antimicrobial emulsion").

The term "antimicrobial" is defined by the cited patent in column 2 line 55-60 as follows:

The term "antimicrobial," as used herein, means having the ability to inactivate infectious pathogens. The term "inactivate", as used herein, includes but is not limited to killing or inhibiting growth.

The presently claimed invention provides a method of preventing adhesion of microorganisms on the surface of the skin without the need of specific bactericidal or antimicrobial compounds. The compositions according to invention are not used in a manner required by the cited art, as any method taught by the cited art requires inclusion of an antimicrobial, which is extremely toxic, and inactivates (e.g. kills or

inhibits growth of) infectious pathogens. This requirement of the "method" of the cited art would not be desirable, as is believed to be expressed in, for example, claim 13.

For completeness, the applicants note that olive oil is only used in the cited art to formulate an emulsion. The Examiner's reference to an alleged motivation in the art to use olive oil would not have motivated one of ordinary skill in the art to have made the claimed method from the teachings of the cited patent. Wright teaches that in order to form an emulsion, olive oil is important, but olive oil is not responsible for the ability to inactivate infectious pathogens. The ability in the cited patent to inactivate pathogens is vested in cationic halogen-containing compound having a C₁₂-C₁₆ chain.

The claims are submitted to be patentable over the cited art and withdrawal of the Section 103 rejection and a Notice of Allowance are requested.

The Examiner is requested to contact the undersigned in the event anything further is required in this regard.

Respectfully submitted,

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